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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re JAYLA P. et al., Persons Coming Under
the Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Z. W.,

Defendant and Appellant.

B211024

(Los Angeles County
Super. Ct. No. CK14088)

APPEAL from an order of the Superior Court of Los Angeles County,
Valerie Skeba, Referee. Affirmed.

John Cahill, under appointment by the Court of Appeal, for Defendant and
Appellant.

James M. Owens, Assistant County Counsel and Timothy M. O’Crowley, Deputy
County Counsel, for Plaintiff and Respondent.

INTRODUCTION

In an appeal from an order terminating dependency jurisdiction and making custody and visitation orders, the mother of two children claims that the juvenile court erroneously required her visitation to be monitored. We find that Mother's statements to and conduct toward her children, their father, and the children's caregivers during the dependency proceeding provided evidence supporting the order requiring the mother's visitation to be monitored. We find no abuse of discretion and affirm the order.

FACTUAL AND PROCEDURAL HISTORY

Detention and Section 300 Petition: Z. W. (Mother) was the mother of six-year-old Jayla P. and give-year-old P.P. S.P. (Father) was the presumed father of Jayla and P. On June 1, 2005, the Department of Children and Family Services (DCFS) filed a Welfare and Institutions Code section 300¹ petition, later amended, alleging that Jayla and P. were persons described by subdivision (b), alleging a history of domestic violence between Mother and Father, who had engaged in confrontations in the children's presence. The petition alleged that on February 27, 2005, while exchanging the children, Mother and Father had a confrontation with Father in his vehicle and Mother in front of the vehicle. The petition also alleged domestic violence between the parents placed the children at risk of physical and emotional harm. The petition alleged that Jayla and P. were persons described by subdivision (c), in that Mother and Father had a long-standing dispute about custody and visitation, and had made numerous referrals to the DCFS against one another alleging physical, sexual, and emotional abuse. The petition further alleged that the parents' ongoing disputes and domestic violence resulted in the children's symptoms of severe emotional distress, placing them at risk of physical and emotional harm.

Jayla was detained and placed with a licensed foster family agency. P. was at large and Mother would not inform the DCFS as to her whereabouts. Mother and Father did not live together. They were actively involved in Family Law Court regarding

¹ Unless otherwise specified, statutes in this opinion will refer to the Welfare and Institutions Code.

custody of Jayla and P. There had been 45 child abuse referrals, alleging general neglect, severe neglect, and emotional, physical, and sexual abuse. A mandated reporter made a few of the referrals. Most of the referrals were determined to be inconclusive or unfounded, but physical and emotional abuse allegations were substantiated against Mother involving an older sibling, which substantiated that Jayla and P. were at risk of similar abuse.

The DCFS reported that based on the number of referrals and their disposition, Mother and Father used the DCFS to try to ruin the other's reputation and to use their children and the DCFS to overturn the Family Law visitation and custody order. Mother and Father's decisions had subjected their children to multiple sexual abuse exams, CSW interviews, and police interviews. Mother and Father were warned several times to stop making false referrals to the child abuse hotline because it hurt their children.

A CSW had monitored the family since September of 2004 without successful results. Mother and Father continued to have problems and to involve their children in their problems. The latest referral on March 11, 2005, was from Father, who called a CSW and stated that at a visitation exchange, Mother lifted her shirt and told him, "eat this pussy," as Jayla stood next to Mother. Father stated that Mother pulled Jayla's hair, pushed her very hard, and made Jayla cry. Father also stated that Mother left P. in the car. Mother responded that when she arrived at the police station to pick up Jayla, she lifted up her shirt and said to Father, "you know you miss this." Mother said Father tried to run her over in the parking lot and Jayla started crying.

Father saved cell phone messages from Mother, who used vulgar language while the children could be heard in the background. In one message, Mother told a child to say something and the child repeated what Mother asked her to say. It appeared that Mother and Father had Jayla communicate what they had to say to one another. Jayla and P. fought and argued in Mother's presence. A CSW observed them hitting and kicking each other and raise their voices to almost yelling.

Jayla's teacher reported that Jayla had "social issues," argued with every child in the class, was very loud in class, and yelled when she became angry or upset. Jayla said things that shocked the other children, cursed, and used inappropriate language which the teacher had to correct "constantly." When Mother was allowed into the classroom, she was negative toward Jayla. Mother was defensive during parent-teacher meetings and had excuses why Jayla did not turn in her work. Father came to the school at least once a week, brought Jayla lunch and ate with her, and had also brought treats for Jayla's class and had attended a field trip with Jayla and the class.

As of June 1, 2005, Mother had not released P. to the DCFS and claimed not to know where P. was. P. had stated that she stayed at the homes of different people, some of whom she did not know. On May 20, 2004, the CSW received another referral alleging Mother's physical abuse of Jayla, who reported that Mother slapped her on her cheek because Mother was mad at her. Jayla said this was not the first time this happened, and Mother yelled at her when she was upset.

Jayla reported that during a visit exchange at a police station in February or March 2005, Jayla saw mother lift up her shirt and tell Father, "go home to your bitch," after which Jayla said she saw Father try to run over Mother with his car.

Father was interviewed, and admitted to separating the children during visits because of what Mother had done to him and his family in the past. Father denied that he made the referrals to the DCFS. Father did not object to the children being detained, and stated that "something needs to be done about this issue."

In a June 1, 2005, hearing, the juvenile court ordered the DCFS to detain Jayla and P. and to enroll them in counseling. The juvenile court ordered the DCFS to provide family reunification services, and ordered twice weekly monitored visits for Father and monitored visits three times a week for Mother. On June 2, 2005, Mother made false statements to the DCFS about P.'s whereabouts. She then said she would find P. and her older daughter, Cam., and bring them to the DCFS office, but failed to do so.

Adjudication: On July 15, 2005, the DCFS reported that Jayla and P. were placed with a foster family agency.

Jayla stated that Mother never pulled her hair, slapped her face, or pushed her and that Father had lied about it. Jayla said she never saw her parents hit one another. Jayla said, however, that Mother had once said Father tried to run her over with his car, but Jayla did not see that. Jayla said she never heard Mother say sexually explicit things to Father. P. stated that she never saw Mother slap Jayla's face, pull her hair, or push Jayla. P. never saw her parents hit one another, never saw Father try to hit Mother with his car, and never heard Mother say bad things to Father.

Mother said Father hit her when she was pregnant with Jayla, when she went into labor to deliver P., and when P. was about six weeks old. Mother said Father tried to run her over with his car, but denied making sexual statements to him in front of Jayla. Mother denied making 40 referrals; she said she called the hot line for information and might have called Children's Hospital twice.

Father said Mother abused the children. Regarding the allegation that he tried to hit Mother with his car, Father stated that he was leaving a parking lot of the Hawthorne Police when Mother walked toward his car, took her shirt off, and said, "do you want to eat my pussy," and walked in front of his car as he tried to drive away. Father called allegations that he sexually abused Jayla absolutely false. Father claimed that Mother had tried to take him to court claiming domestic violence, which was false. Father said that the children have no trauma with him, but possibly with Mother. He said the children were happy with him and never misbehaved.

The children's caregiver informed the DCFS that during a July 13, 2005, visit, Mother washed the mouths of Jayla and P. with peroxide. A social worker reported that Mother was verbally abusive to Jayla, and told her "this is why you are in foster care" because she did not acknowledge to Mother that they saw Father the previous Saturday. Mother left during her visit and then returned and called the child names like "liar" and "stupid." Mother told the children stories implying that people were going to kill them, and was reported to treat the children like adults. The caregiver reported that Jayla had nightmares every night. On June 22, 2005, Mother called the police stating that the caregiver was abusing the children. The police investigated and found that Mother's

allegations were false. The caregiver reported no problems with Father, who visited the children once a week and was always appropriate.

On August 25, 2005, the juvenile court adjudicated the matter, sustained the petition as amended, and found that Jayla and P. were persons described by section 300, subdivisions (b) and (c). The juvenile court ordered the children detained with their maternal grandmother. The juvenile court also ordered an Evidence Code section 730 evaluation of the parents, children, and maternal grandmother. The dispositional hearing was continued several times, and took place on February 2, 2006.

Disposition: For the dispositional hearing, the DCFS reported that Jayla and P. were placed with their maternal grandmother. On January 13, 2005, the DCFS reported that during the CSW's visit to the maternal grandmother's home on January 11, 2005, the maternal grandmother assaulted the CSW, pushed the CSW in the back three times, and attempted to push the CSW down a flight of stairs. Entering the maternal grandmother's apartment, the CSW smelled a strong odor of gasoline, which the maternal grandmother could not satisfactorily explain. The apartment was dirty with trash and filth and had dirty dishes in the sink and on the counter, trash on the floor, moldy food in the refrigerator, and a filthy bathroom. The living room had no furniture and children's beds were on the floor. There was no electricity and the apartment appeared abandoned. The CSW asked for the landlord's number to assess the gasoline odor; the maternal grandmother refused to provide the landlord's number. The CSW informed the maternal grandmother that if the odor could not be identified, the children would need to be removed from the apartment, which caused maternal grandmother to become angry and to assault the CSW. Because the maternal grandmother and the children did not appear to live in the apartment and the maternal grandmother appeared unable to protect the children, the DCFS submitted a protective custody warrant for Jayla and P.

Maternal grandmother refused to make Jayla and P. available to the CSW, and the CSW had not seen the children since their placement with maternal grandmother on August 3, 2005. The CSW made numerous scheduled and unannounced visits to the maternal grandmother's home, but she was never there with the children. On January 17, 2006, the juvenile court treated the DCFS's application for a protective custody warrant as a section 385 petition, granted that petition, continued the matter to January 19, 2006, and ordered the maternal grandmother to take Jayla and P. to DCFS offices by 3:00 p.m. on January 17, 2006.

For the January 19, 2006 hearing, the DCFS reported that the maternal grandmother did not comply with the order to bring the children to DCFS offices by 3:00 p.m. on January 17, 2006. She stated she left the children with her other granddaughter and did not know where they were. She was told to call the granddaughter to have the children brought to her. On January 18, 2005, Mother visited the DCFS office. The children were not present. When the CSW asked about the children's whereabouts, Mother responded, "I don't have to talk to you."

On January 19, 2006, the juvenile court recalled and quashed the protective custody warrant issued for Jayla and P., found that continued placement with maternal grandmother was contrary to the children's welfare, and ordered the minors detained from maternal grandmother and placed in shelter care pending court order. The juvenile court ordered an updated disposition report and continued the dispositional hearing to February 2, 2006.

For the February 2, 2006, dispositional hearing, the DCFS reported that Jayla and P. were placed with a licensed foster family agency. The children visited with their parents weekly and visits were reported to be going well.

The juvenile court admitted the Evidence Code section 730 evaluation, prepared by Timothy Collister, Ph.D., into evidence for the dispositional hearing. Dr. Collister concluded there was little risk that Father would physically or emotionally abuse the children, and his interactions with the children showed substantial warmth, nurturance, and support. Dr. Collister found a plausible possibility of physical abuse by Mother.

Mother might have episodes where she became angry and lost control of her temper. Overcontrolled hostility might erupt in an explosive or dangerous outburst, and if she lost control of her temper she might act out with physical abuse. Dr. Collister stated that Mother had experienced substantial and extreme emotional trauma. “This includes the parental separation by the father from the mother, with the father not present much Much more important is the assault with a deadly weapon, if not attempted murder by her first partner who fathered her oldest child, leaving her scarred with a razor blade. This would be considered to be a terrifying, life-threatening event. Then, there is the sister’s murder when [Mother] was 27, which would also be an extreme trauma. There is a background history of rape at 16, and domestic violence by her first two partners, the fathers of her first two daughters. This is all prior to entering into the relationship with [Father]. . . . As there are points of abuse that have been sustained by the Court, then one would rate the risk of other episodes to be moderate to high.”

The juvenile court asked Dr. Collister whether Mother influenced the children to fear father or to make allegations against him. Dr. Collister concluded that Mother acted negatively toward Father and did influence the children to have a negative stance toward him and to fear Father. Dr. Collister stated that “there is significant negative interaction by the mother, as well as by the grandmother, towards the father, which both influences [the children] making it more likely that allegations could be made without justification, or exaggerated, and that they might otherwise fear their father.”

Dr. Collister recommended placement of the children with Father. Father showed “a benign psychological profile, without any significant psychopathology[,]” Father’s interactions with the children were positive, nurturing, and warm, and his behavior with them was appropriate. Mother, by contrast, showed “a history of exposure to extreme emotional trauma . . . and now, a psychological profile that includes the possibility of ‘adult sized tantrums,’ and losing control of temper at times. This type of profile raises the risk of emotional abuse and possible physical abuse. Moreover, the manner in which the mother interacted with the children during the observation was devoid of warmth, nurturance, and support.”

Dr. Collister stated that visitation should be conditioned on each parent not speaking negatively to the children about the other parent. “That does not appear to be so difficult for [Father], but with the mother’s background, her psychological profile and history, one would expect that she will probably continue to speak out negatively towards [Father]. The Court should strongly counsel her against that. It may be necessary for the mother’s visits with the daughters to be monitored to avoid negative verbalizations by the mother against the father.”

In the dispositional hearing, the juvenile court declared Jayla and P. dependent children of the court under section 300, subdivisions (b) and (c), ordered custody taken from the parents and placed with the DCFS, and ordered the DCFS to provide the children and parents with reunification services. The disposition case plan ordered Mother to attend parent education, conjoint counseling with the children, and individual counseling to address case issues. Father was ordered to attend parent education and conjoint counseling with children. The juvenile court ordered monitored visitation for Mother and unmonitored visitation for Father, and set the matter for a review of permanent plan hearing on August 3, 2006.

Section 385 Motion: On April 4, 2006, the DCFS filed a section 385 motion seeking suspension of Mother’s visitation until she addressed issues in counseling and that her visitation, when resumed, occur in a therapeutic setting. The motion alleged that on March 30, 2006, during a visit with Jayla and P., Mother brought a disposable camera and told the children to pose for the camera. When the children smiled, Mother took pictures and then asked them to make a “sad face” and photographed them with their sad faces. Mother appeared to have a negative influence on the children, who appeared willing to say or do anything during a visit that would please Mother. During a March 23, 2006, visit, Mother stated she was well educated, that the CSW might not have seen such an educated person before, that Mother was capable of running the whole DCFS office, and that if she were in that position she would close the office because all CSW’s were “dumb and stupid.” During this time Jayla became disrespectful to CSW, told the CSW that they did not want him as their CSW, and spat on the CSW. On April 4, 2006,

the juvenile court granted the motion and ordered Mother's visits to take place in a therapeutic setting monitored by the children's therapists.

Review of Permanent Plan Hearing: For the August 18, 2006, hearing, the DCFS reported that Mother's August 1, 2006, monitored visit with the children was appropriate and the children enjoyed the visit. Father took the children to church on Sundays, and to an outing on Saturday, and had scheduled visits during the week.

Mother submitted documentation that she had received domestic violence counseling and parenting instruction, but the DCFS questioned the authenticity of documents and the service rendered. Mother had failed to acknowledge or take any responsibility for the dispute that brought this case to juvenile court, and continued to minimize the allegations and to blame others for the situation.

On August 18, 2006, the juvenile court found Mother and Father to be in partial compliance with the case plan, ordered them to complete all court-ordered counseling and submit proof of completion, and ordered the DCFS to provide reunification services. The matter was set for a review hearing on February 16, 2007.

Contested Judicial Review Hearing: The review hearing was set for Mother's contest on April 27, 2007. The children had been re-placed with new foster parents. The parents' visits were appropriate and the children responded well.

On February 22, 2007, the children disclosed that they had spent the night at Mother's home with their sisters C. and Cam. without DCFS approval and in violation of court order. Mother and C. denied that this happened. The children, however, continued to state that it did occur. The caregiver monitored a phone call in which Mother told the children to change their story. The DCFS concluded that Mother appeared to reinforce manipulation and lying as acceptable behavior, which was damaging to the children.

On March 16, 2007, the foster mother informed the DCFS that Mother left a voice mail message the previous night making threatening statements and the foster mother had called the police. The foster mother had ended Mother's phone call with the children because Mother told the children she would have them removed from the caregiver's home. Mother then left a message for the foster mother, "you remember you have

children too. Something can happen to your children because you mistreated me, okay!” In a second call, Mother accused the foster mother of “playing these little games and stuff. Don’t let me call the police. I will have them come and remove my children.” The foster mother and the DCFS applied for a restraining against Mother, and for Mother’s weekly visits at the DCFS office, and two monitored phone calls a week. On March 26, 2007, the juvenile court made a stay-away order prohibiting Mother from coming within 100 yards of the caregivers, their children, or their residence, and from making annoying phone calls.

On March 21, 2007, CSW met with Mother privately to inform her of the restraining order. Mother denied threatening the caregiver. When told that Mother’s visits would be restricted and visits with children would occur at the DCFS, Mother said she did not agree with that and walked out of the office. In the lobby, Mother gave Jayla and P. a hug and told them that the caregiver was filing a restraining order against her and “they don’t want me to see you guys anymore. I won’t see you guys on weekends.” When the CSW advised Mother to refrain from inappropriate language, Mother said “I don’t care. That’s the fact. The Department don’t want me to see my children.” Mother then left. As the CSW and the children walked to the CSW’s car, Mother returned and gave the children a kiss and a hug. As she gave Jayla a hug and a kiss, she whispered into Jayla’s ear. The CSW asked Jayla what Mother whispered, and Jayla said Mother “said that [the caregiver] is going to adopt us and not to let that happen[.]” Jayla then began to cry and said, “I want my mommy.”

For the April 27, 2007, hearing, the DCFS reported that the CSW’s attempts to contact Mother to discuss arrangements for visitation and phone calls were unsuccessful. Mother refused to provide a phone number and said she did not want to talk to the CSW and would write to the CSW if necessary. Mother’s April 12, 2007, visit with the children was appropriate. Mother was scheduled for visits at the DCFS for two hours on Mondays and for phone calls on Tuesdays and Thursdays. Father had shown his compliance with the case plan in individual and conjoint counseling, and the DCFS had liberalized Father’s visits to unmonitored visits four hours a week.

On April 27, 2007, the juvenile court gave the DCFS discretion to allow unmonitored visits and set the matter for a June 22, 2007, progress hearing.

June 22, 2007, Progress Hearing: The DCFS reported for the June 22, 2007, hearing that it had received, from Mother, letters from Dr. Amiri and from John Lewis LCSW of Inglewood Mental Health with attached “progress notes.” The DCFS noted that the progress letters were not authenticated and seemed oddly written. Mother’s therapist Kellie Mack on June 21, 2007, stated that Mother’s progress toward all goals was minimal because Mother was late for numerous sessions, and in sessions Mother spoke on tangents inappropriately, directed the conversation to the therapist, and moved off the task. Mother and children were assigned a new therapist because of lack of progress. Mother received a contract with clear boundaries about what was expected and what she could talk about.

On June 22, 2007, the juvenile court ordered the DCFS to authenticate progress letters from Mother’s therapists Lewis and Amiri and to state the number of conjoint counseling sessions completed and the DCFS’s final recommendations. The matter was set for a July 13, 2007, hearing.

For the July 13, 2007, hearing, the DCFS reported that Jayla and P. were re-placed on June 20, 2007, due to allegations against the foster parent.

Mother’s therapist John Lewis confirmed that he wrote a June 8, 2007 letter, but did not write the June 8, 2007, “progress note.” Mother’s therapist Dr. Amiri stated that he wrote a June 14, 2007, letter, but did not write the June 8, 2007, “progress note.” Dr. Amiri’s letter concluded by stating his concerns with continuing his care for Mother, as she had disrupted his trust and the therapeutic alliance. Kellie Mack, the therapist for Jayla, P., and Mother, stated that they had attended all scheduled therapy sessions since May 12, 2007, but had difficulties staying focused and often did not participate in activities provided by the therapist and were generally non-compliant with the therapist’s requests. Progress toward therapeutic goals was minimal, and because of lack of progress and motivation Mack had transferred therapeutic services to another therapist.

Mack's progress report for Father's therapy with P. and Jayla stated that all three attended and participated in therapy sessions and showed motivation for therapy services.

Jayla and P. reported to a CSW that half-sister Cam. had visited their school, and stated that it was OK to lie for the family and to lie to the CSW. Jayla stated that Cam.'s statement made her feel uncomfortable, because she knew it was not OK to lie to the social worker or to anyone else.

Mother's monitored visits were appropriate. Father continued unmonitored visits, and Jayla and P. stated that they enjoyed visits with Father.

The DCFS concluded that Mother presented the court with a June 8, 2007, "progress note" letter on Inglewood Mental Health letterhead, and her therapists (Lewis and Amiri) stated they did not write that letter. The DCFS stated that Mother's submission of this false document was inappropriate and brought her progress into question.

On July 13, 2007, the juvenile court set the matter for a section 366.22 hearing on August 16, 2007, and gave the DCFS discretion to liberalize Mother's visits to unmonitored and to liberalize Father's visits to weekend overnights.

August 24, 2007, Hearing: On June 20, 2007, Jayla and P. were re-placed with new foster parents due to allegations against their former caregiver. The girls had no behavioral problems in their new placement and felt comfortable there.

Mother attended individual counseling with Lewis and made progress and conjoint counseling with Jayla and P. with a new therapist, Segen Elliott since July 3, 2007. Elliott conducted weekly family sessions and two separate meetings with Mother to teach communication, personal boundaries, and parenting skills. Elliott stated that Mother actively participated in therapy, came to sessions on time, complied with requests, and was willing to learn interventions that would aid in her well-being. Her visits remained monitored, because Mother still needed to be reminded not to discuss case issues in front of the children.

Father made progress in individual and conjoint counseling. On April 12, 2007, the DCFS liberalized Father's visits to unmonitored visits four hours a week, and to

overnight visits on July 17, 2007. Subsequent overnight visits went well and the children expressed no concerns about spending unmonitored time with Father.

The DCFS recommended that Mother's visits remain monitored because of Mother's history of being indiscriminate in sharing information with the children, her ability to remain neutral in issues regarding Father, and the risk of Mother's flight with the children or refusal to return them to Father after an unmonitored visit.

In an August 24, 2007, hearing, the juvenile court ordered the children released to Father's custody, Mother's visits to remain monitored, and Mother not to be within 300 feet of the family home or the children's school, and set the matter for a contested section 366.22 hearing, which occurred on November 21, 2007.

For the November 21, 2007, hearing, the DCFS reported that Jayla and P. made progress in nine conjoint counseling sessions. Adult siblings Cam. and C. attended an August 24, 2007, visit between Mother and the children. Mother blamed Cam. and C. for Jayla and P. not being in Mother's care. Toward the end of the visit Jayla tried to hug Mother, who ran away, causing Jayla to cry.

Mother did not show up for a scheduled visit on September 7, 2007, arrived on time for visits on September 14 and October 5, 2007, and cancelled a visit scheduled for October 12, 2007. Mother had visits with the children on October 22 and 29 and November 5, 2007. On November 20, 2007, social workers interviewed Jayla and P. about their visits with mother. P. said nothing in the visits upset her, but Mother asked questions about who P. slept with and why Jayla cut her hair. Jayla said Mother said people would laugh at her hair, which made Jayla sad. Jayla stated that having a monitor was helpful because the monitor could tell Mother not to say things. The children reported that living with Father went very well.

On November 21, 2007, the juvenile court ordered termination of reunification services to Mother, and ordered Mother to continue conjoint counseling with a new counselor. Until the court was certain that conjoint counseling continued, Mother's visits were to continue to be monitored. The DCFS was ordered to ensure that Mother and children were assigned a new conjoint therapist. Mother's unmonitored visits were not to begin until weekly conjoint counseling resumed and the new conjoint therapist was confirmed to have received and read court reports about family issues in this case. Visits were to revert to monitored visits if Mother missed two consecutive conjoint sessions or if Mother missed six or more visits within the next three months. The matter was set for a progress hearing on December 27, 2007.

December 27, 2007, Hearing: For the December 27, 2007, progress hearing, the DCFS reported that P. and Jayla lived in Father's home. Mother, Jayla, and P. were introduced to a new therapist, Amber Marinoff, on November 27, 2005. Three conjoint sessions had occurred since then.

The CSW asked Mother her current address, and Mother gave her address as 2314 W. Imperial Highway, Apartment C, Hawthorne.

Pursuant to the court's November 21, 2007, order, visits were to remain monitored until the new conjoint therapist confirmed that court reports had been received and read. A December 21, 2007, visit was to take place at Mother's house. Mother gave the CSW a different address than the W. Imperial Highway address Mother had provided a few days earlier. Mother said she had two houses. The CSW drove the children to the home, and when they arrived Jayla said she had never been there before. Mother said she had lived in the house for two years, but could not provide any mail with her name on it, and would not allow the CSW in Mother's bedroom.

In the December 27, 2007, hearing, the juvenile court gave the DCFS discretion to allow Mother unmonitored visits after consultation with the children's counsel and verification of Mother's address, and set a May 21, 2008, review hearing.

May 21, 2008, Hearing: For the May 21, 2008, hearing, the DCFS reported that P. and Jayla continued to live happily in Father's home. They attended individual

counseling until February 2008, when the therapist terminated therapy due to their completion of their goals. Conjoint counseling sessions with children and Father were terminated in November 2007. Conjoint counseling sessions with the children and Mother were terminated on March 25, 2008. During four visit from December 6, 2007 to March 6, 2008, the CSW observed Mother interact appropriately with Jayla and P. The CSW, however, was unable to verify Mother's address. Mother continued to leave phone messages for Father, despite being aware that a restraining order prohibited them. In December 2007, Mother left a voice mail message for Father that she would "go tell the neighbors what kind of man you are," that "I will take you to another court and sue you," "you call yourself a Christian," and "you and your haggly mom are wicked people." Mother asked Father "why pick on women and children" and taunted Father repeatedly. Father reported that on December 4, 2007, siblings C. and Cam. tried to go to P.'s class at her school, that the school office staff felt harassed by them, and that C. and Cam. were trying to turn P. against him.

In January of 2008, the CSW informed Mother that her two-hour visits would continue but the location would alternate between the Torrance DCFS office and Nellie's Daycare. Mother did not attend any visits at the DCFS office, and gave no explanation except that it was not feasible. Mother did attend visits at Nellie's Daycare on January 24 and March 6, 2008, and interacted appropriately with Jayla and P.

The DCFS stated that it had no concerns for the children in Father's home that would warrant continued supervision, and recommended termination of jurisdiction. The DCFS had numerous concerns about Mother's ability to act appropriately without discussing case issues and without making negative statements about Father in front of the children. The December 27, 2007, juvenile court order gave the DCFS discretion to allow Mother unmonitored visits after consultation with the children's counsel and verification of Mother's home address. Mother gave the CSW two different addresses, could not provide letters mailed to the address, and had falsified documents in the past. Copies of the December 21, 2007 progress report and the notice for the May 21, 2008 hearing sent to Mother's address were returned. Because the DCFS could not verify

Mother's address, because of Mother's previous falsification of documents, and because Mother abducted one of the children during the first period of supervision, the DCFS did not liberalize Mother's visitation. The DCFS recommended termination of juvenile court jurisdiction for the children, with a family law order granting sole physical custody to Father, joint legal custody to Father and Mother, and with Mother's visits to remain monitored.

On June 9, 2008, the matter was set for a contested section 364 hearing on July 16, 2008. Mother did not appear at that hearing. The juvenile court found that the conditions that originally justified section 300 jurisdiction no longer existed, ordered jurisdiction terminated with a family law order granting sole physical custody to Father, joint legal custody to Mother and Father, and monitored visits at least twice monthly for Mother to be monitored by the S.A.F.E. program or a mutually agreed monitor, with adult siblings included in visits. The family law order was filed on July 21, 2008.

Mother filed a timely notice of appeal.

ISSUES

Mother claims on appeal that:

1. Substantial evidence did not support requiring monitored visitation; and
2. The order requiring monitored visitation on the basis that Mother did not benefit from conjoint counseling was prejudicial and warranted reversal.

DISCUSSION

The Order Requiring Monitored Visitation for Mother Was Not an Abuse of Discretion

Mother claims that no evidence supported the juvenile court's finding in its exit order that Mother's visitation with the children needed to be monitored.

a. *Mother's Failure to Object to the Custody Order Forfeited That Claim on Appeal, But This Court Has Discretion to Address the Merits*

Mother made no objection to the order requiring monitored visitation in the July 16, 2008, hearing, or in the July 21, 2008, hearing in which the juvenile court made and signed the written family law order. A reviewing court ordinarily will not consider a

challenge to a ruling if an objection could have been made in the juvenile court but was not made. This rule applies in dependency cases. Although the appellate court has discretion to excuse forfeiture for failure to object in the lower court, that discretion is to be exercised rarely and only in cases involving a substantial right or presenting an important issue of law or of constitutional law. (*In re S.B.* (2004) 32 Cal.4th 1287, 1293-1294; *In re Sheena K.* (2007) 40 Cal.4th 875, 887.) Despite the forfeiture, however, we address the merits of Mother's claim.

b. *The Standard of Review of a Custody Order Is Abuse of Discretion*

This court reviews a juvenile court's order made pursuant to section 362.4 terminating dependency jurisdiction and issuing an exit order for custody and visitation for abuse of discretion. This court may not disturb the order unless an abuse of discretion is clearly established, i.e., the trial court is found to have exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318; *Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 300.)

c. *Mother's Statements and Conduct During the Dependency Case Provided a Basis for Requiring Monitored Visitation as Being in the Best Interests of Jayla and P., and That Order Was Not an Abuse of Discretion*

Mother claims that when this dependency case terminated, the issues that brought the case into the dependency system had been resolved. Indeed, the juvenile court made this finding in both the July 16, 2008 and the July 21, 2008, hearings.

The finding that the conditions that led to dependency jurisdiction no longer existed, however, was not inconsistent with an order, issued on termination of that dependency jurisdiction, placing restrictions on a parent's visitation. (*In re Chantal S.* (1996) 13 Cal.4th 196, 204.) The order for monitored visitation for Mother reflected the juvenile court's continuing concerns about the effects of Mother's visitation on the children's well-being. (*Ibid.*; *In re Jennifer R.* (1993) 14 Cal.App.4th 704, 712-713.) The juvenile court has the power to regulate visitation between dependent children and their parents, and must define the parties' rights to visitation. (*In re Donovan J.* (1997)

58 Cal.App.4th 1474, 1476.) “When the juvenile court terminates its jurisdiction over a dependent child, section 362.4 authorizes it to make custody and visitation orders that will be transferred to an existing family court file and remain in effect until modified or terminated by the superior court.” (*In re Roger S.* (1992) 4 Cal.App.4th 25, 30.) By authorizing the juvenile court to make a visitation order, section 362.4 also authorizes that court to make collateral orders that are reasonably related to that order. (*In re Chantal S., supra*, 13 Cal.4th at p. 204.) As in any custody determination, the primary focus of the juvenile court is the children’s best interests. (*In re Nicholas H.* (2003) 112 Cal.App.4th 251, 268.)

Therefore the question is whether the order requiring Mother’s supervised visitation was an abuse of discretion. Throughout the dependency proceeding, there were instances of Mother’s statements and conduct that provided a basis for the requirement of monitored visitation as being in the best interests of Jayla and P. On March 11, 2005, Father reported to the DCSF and stated that at a visitation exchange while Jayla was present, Mother lifted up her shirt and told Father, “eat this pussy,” and Mother pulled Jayla’s hair, pushed her and made her cry, and left her in the car. When Jayla was detained, P. remained at large and Mother would not inform the DCFS as to her whereabouts. As of June 2, 2005, Mother made false statements to the DCFS about P.’s whereabouts and stated she would find P. and Cam. and bring them to the DCFS office, but failed to do so. During visits with the children on July 13, 2005, Mother washed out the children’s mouths with peroxide and was reported to be verbally abusive to Jayla because she did not acknowledge to Mother that they saw Father the previous Saturday. Mother walked out on her visit, then returned, and called Jayla names like “liar” and “stupid.” Mother told the children stories implying that people were going to kill them.

On June 22, 2005, Mother called police and reported that the children’s caregiver was abusing them. The police found Mother’s allegations to be false.

In his Evidence Code section 730 psychological evaluation, Dr. Collister found a plausible possibility of physical abuse by Mother, whose psychological profile raised the possibility that Mother might have episodes where she became angry and lost control of

her temper. It was possible that overcontrolled hostility might erupt in an explosive or dangerous outburst, and that if she lost control of her temper she might act out with physical abuse. Dr. Collister also concluded that Mother acted negatively toward Father and influenced the children to have a very negative stance toward him and to fear Father. Dr. Collister's opinion was that "there is significant negative interaction by the mother . . . towards the father, which both influences [the children] making it more likely that allegations could be made without justification, or exaggerated, and that they might otherwise fear their father."

On February 22, 2007, the children disclosed to the CSW that they had spent the night at Mother's home with their sisters C. and Cam. without DCFS approval and in violation of court order. Mother and C. denied that this happened. Mother called the children, as the caregiver monitored the call, and told them to change their story. Mother's conduct appeared to reinforce manipulation and lying as acceptable behavior, which was damaging to the children.

On March 16, 2007, after the foster mother terminated Mother's phone call with the children because Mother inappropriately told the children she would have them removed from the caregiver's home, Mother left a voicemail for the caregiver threatening the caregiver's children and threatening to have the police come and remove Jayla and P. from the caregiver's home. This resulted in the juvenile court's issuance of a stay-away order, prohibiting Mother from coming within 100 yards of the caregivers, their children, or their residence, and not to make annoying phone calls.

On March 21, 2007, CSW met with Mother to inform her of the restraining order. Mother denied making threats to the caregiver. When told that Mother's visits would be restricted and visits with children would occur at the DCFS, Mother said she did not agree with that and did not want it, and walked out of the office. In the lobby, Mother gave Jayla and P. a hug and told them the caregiver was filing a restraining order against her and "they don't want me to see you guys anymore. I won't see you guys on weekends." When the CSW advised Mother to refrain from inappropriate language, Mother said "I don't care. That's the fact. The Department don't want me to see my

children.” Mother then left. As the CSW and the children walked to the CSW’s car, Mother returned and gave the children a kiss and a hug. As she gave Jayla a hug and a kiss, she whispered into Jayla’s ear. The CSW asked Jayla what Mother whispered, and Jayla said Mother “said that [the caregiver] is going to adopt us and not to let that happen[.]” Jayla then began to cry and said, “I want my mommy.”

Mother submitted progress notes to the juvenile court which were false and had not been written by either of her two therapists.

In August 2007, visits remained monitored because Mother still needed to be reminded not to discuss case issues in front of the children.

At an August 24, 2007, visit between Mother and the children, adult siblings Cam. and C. attended. Mother blamed Cam. and C. for Jayla and P. not being in Mother’s care. Toward the end of the visit Jayla tried to hug Mother, who ran away, causing Jayla to cry.

On November 20, 2007, Jayla reported that Mother made her sad by saying that people would laugh at her hair. Jayla stated that having a monitor was helpful because the monitor could tell Mother not to say things.

In December 2007, Mother continued to leave voice mail messages for Father threatening to tell the neighbors about him and to sue him in court, and calling him and his mother wicked. In January through March 2008, Mother refused to attend scheduled visits with Jayla and P. at the DCFS office in Torrance and provided no explanation except that it was not feasible.

Mother’s statements and conduct provided a basis for the requirement of monitored visitation as being in the best interests of Jayla and P. We find no abuse of discretion.

DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

KITCHING, J.

We concur:

KLEIN, P. J.

ALDRICH, J.